

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

IN RE:)	
)	
JOE LEE ROY POWERS, JR.)	Case No. 15-10068
)	Chapter 13
Debtors.)	

**AMENDED MOTION OF PM PROPERTY SALES, LLC FOR RELIEF FROM AUTOMATIC STAY OR,
IN THE ALTERNATIVE, MOTION FOR ADEQUATE PROTECTION AND
BRIEF IN SUPPORT WITH NOTICE OF OPPORTUNITY FOR HEARING**

COMES NOW PM Property Sales, LLC, an Oklahoma limited liability company ("PM Property"), and pursuant to 11 U.S.C. §§ 361, 362(a) and Fed. R. Bankr. P. 4001(a)(1), files this its Motion for Relief from Automatic Stay or, in the Alternative, Motion for Adequate Protection and Brief in Support, and would show the court as follows:

1. Joe Lee Roy Powers, Jr. ("Debtor") filed his Voluntary Petition for Relief under Chapter 13 of the United States Bankruptcy Code on January 9, 2015.

2. On April 1, 2011, the Debtor executed a Real Estate Contract with PM Property regarding:

SURFACE ONLY: Tract One (1), SUMMERWOOD MEADOWS ESTATES, Being a part of the Northwest Quarter (NW/4) of Section Seven (7), Township Seven (7) North, Range Four (4) East of the Indian Meridian, Pottawatomie County, Oklahoma ("Subject Property")

and delivered to PM Property an Installment Note regarding the Subject Property. Copies of the Contract and Note are attached hereto as Exhibits "1" and "2".

3. On November 21, 2015, PM Property filed Pottawatomie County District Court Case No. CJ-2014-453, *PM Property Sales, LLC v. Joe L. Powers, Jr.*, seeking judgment against the Debtor for past due and unpaid sums owed on the Contract of Twenty Thousand Seven Hundred Sixty Nine Dollars and Thirty Two Cents (\$20,769.32) as of July 28, 2014. A copy of the Petition is attached hereto as Exhibit "3".

4. In his Chapter 13 Plan (Document #2, p. 2), the Debtor proposes to cure the default to PM Property by paying the amount of \$595.05 per month at a rate of 5.25%

interest until the default is cured. First, the default amount proposed by Debtor is inaccurate. The default amount as of the filing of Debtor's Voluntary Petition on January 9, 2015, is actually \$3,001.36, including defaulted principal, interest, late charges and fees through January 8, 2015. Additionally, as demonstrated in the state court Petition, the Debtor has failed to timely service his existing debt to PM Property at a monthly payment of less than half of what the Debtor now proposes in the Chapter 13 Plan. PM Property respectfully requests that the Court issue an order granting it relief from the automatic stay so that PM Property may exercise its state law remedies with respect to the Subject Property. Without such an order, PM Property will be without adequate protection to secure its interest in the Subject Property. See 11 U.S.C. § 362(d)(1).

5. Further, the Court should grant PM Property relief from the automatic stay under 11 U.S.C. § 362(d)(2) because: (1) Debtor does not have any equity in the Subject Property; and (2) the Subject Property is not necessary to an effective reorganization. See 11 U.S.C. § 362(d)(2).

6. In the alternative, PM Property seeks an order granting it additional protection *via* periodic cash payments until plan confirmation, pursuant to 11 U.S.C. §§ 361(1) and 1326(a)(1)(C).

WHEREFORE, PM Property respectfully requests that the Court (1) issue an order lifting the automatic stay so that PM Property may exercise its state law remedies as to the Subject Property in the already pending state district court case; (2) in the alternative, issue an order requiring Debtor to make periodic cash payments to PM Property to afford it additional protection; and (3) grant it all other and further relief to which it is justly entitled.

DATED this 20th day of February, 2015.

/s/ James T. Stuart

JAMES T. STUART, OBA #8707

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NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. If you do not want the court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, Oklahoma 73102, no later than 14 days from the date of filing of this request for relief. You should also mail a file-stamped copy of your response or objection to the undersigned Creditor/Creditor's attorney [and others who are required to be served] and file a certificate of service with the Court.

If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice. **The 14 day period includes the 3 days allowed for mailing provided for in Rule 9006(f) Fed.R.Bankr.Pro.**

Certificate of Service

 x I hereby certify that on February 20, 2015, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Christopher T. Stein, OBA #18844
Christopher T. Stein, PLLC
620 North Robinson, Suite 207
Oklahoma City, OK 73102
Attorney for Debtors

John T. Hardeman
PO Box 1948
Oklahoma City, OK 73101
Trustee

I further certify that I mailed, postage pre-paid first class, U.S. mail to:

The debtor, Joe Lee Roy Powers, Jr., c/o Christopher T. Stein, 620 North Robinson, Suite 207, Oklahoma City, Oklahoma 73102.

/s/ James T. Stuart
JAMES T. STUART, OBA #8707